

## **REMARKS**

Reconsideration of the above-identified application in view of the foregoing amendments and the following remarks is respectfully requested.

### **A. Status of Claims**

Claims 1, 2 and 4-25 are pending. Claims 1, 13 and 17 are amended. Claims 4-7 and 25 are cancelled, without prejudice or disclaimer. Explanations for these amendments are discussed in greater detail below. No new matter is added by these amendments, and their entry is respectfully requested. Because claims 4-7 and 25 are cancelled, the Office Action's rejection of these claims is moot.

### **B. Claim Objections**

The Office Action objected to claims 5 and 25 because the trademark "PLATON DE 25" should be allegedly removed from the claim. Claims 5 and 25 are cancelled, and the objection is therefore moot.

### **C. Rejections Under 35 U.S.C. § 102 and § 103**

The Office Action rejected claims 1, 2, 6, 10-17 and 21-24 under 35 U.S.C. § 103(a) as being unpatentable in view of U.S. Patent No. 3,618,888 to Wise ("Wise"). The Office Action also rejected claim 4 under 35 U.S.C. § 103(a) as unpatentable over Wise as applied to claims 1, 2, 6, 10-17 and 21-24, in further view of U.S. Patent No. 2,745,166 to Lewis ("Lewis"). The Office Action also rejected claims 5, 7, 8, 18-20 and 25 under 35 U.S.C. § 103(a) as being unpatentable over Wise as applied to claims 1, 2, 6, 10-17 and 21-24 and in further view of DE 4,328,787 to Johnsen ("Johnsen"). Finally, the Office Action rejected claim 9 as being unpatentable over Wise as applied to claims 1, 2, 6, 10-14 and 17, and in further view of U.S.

Patent Application Publication No. 2002/0009566 by Schertzberg et al. (“Schertzberg”).

Applicant respectfully traverses the rejections.

Specifically, amended claim 1 recites:

“1. A method of denticulation of a concrete joint between a first and a second cast section, wherein a studded plate is used as a formwork for the first cast section at the location of the joint, and that the studded plate is subsequently removed before the second section is cast;

wherein the studded plate has studs where the stud side wall inclination angle is greater than 60°;

wherein the studded plate has bridges or backs between the studs,

wherein the studded plate has studs that are square, polygonal or round,

wherein the studded plate has studs positioned both laterally and longitudinally in relation to each other in a pattern.”

The Office Action asserts that Lewis “teaches the use of paving dowels having a portion extending into a first-poured concrete section which is filled by a subsequently poured section . . . [where] the portion extending into the first-poured concrete section is formed by a key strip on a form plate which is removed after the first section is cast . . . [and] [t]his key strip has a recess . . . which is formed between two adjacent ‘studs’ . . . [and] [t]his recess between the studs constitutes a back or bridge between the studs as required by [Applicant’s claim 4].”

(Office Action, pp. 9-10, citing Lewis col. 1, lines 20-28, col. 3, lines 17-19, FIG.’s 1 and 3).

Accordingly, the Office Action concludes that it would have been obvious to one of ordinary skill to combine Lewis with Wise to teach “A method according to claim 1, wherein the studded plate has bridges or backs between the studs,” as recited in Applicant’s original claim 4.

Contrary to the Office Action’s suggestion, it would *not* have been obvious to one of ordinary skill to combine Wise with Lewis in this manner to teach all the elements of

amended claim 1. This is because Wise teaches away from a studded plate with bridges or backs *in the longitudinal direction*, as recited in amended claim 1.

Wise discloses that “it is important that the dimpling or embossing area in plate portion **35** be limited to the areas defined . . . [and therefore] the plate portions above aligned top sides **40a** should be flat so that dividing edge **37** will be straight and true.” (Wise, col. 4, lines 39-43). Wise further discloses that “[t]he same considerations apply to lower edge **33** of plate portion **35** . . . [and therefore] it is important that bottom edge **33** be true and straight and not be uneven laterally of the plate, especially where “-dimpling” has occurred.” (Wise, col. 4, lines 47-52).

Accordingly, because Wise discloses that the surfaces above and below the dimples must remain flat and laterally even, Wise cannot teach that those surfaces also have bridges or backs. Wise thus teaches away from bridges or backs between the dimples in the vertical and horizontal directions. Therefore, Wise cannot be combined with Lewis to teach a “studded plate [that] has bridges or backs between the studs” and “wherein the studded plate has studs positioned both laterally and longitudinally in relation to each other in a pattern without rendering” without rendering Wise unsatisfactory for its intended purpose.

The Office Action also rejected original, herein cancelled, claim 7, which recited, *inter alia*, “wherein the studded plate has studs positioned in relation to each other in a pattern” because the “studded plate disclosed by JOHNSEN at figure 7 has a square diamond or polygonal pattern.” (Office Action, p. 11). The Office Action also asserts, discussing this same figure from Johnsen, that it would have been obvious to one of ordinary skill to combine Wise with Johnsen because “the PLATON DE25 shape is a design that has been used in arts requiring studded plates for construction purposes.” (Office Action, p. 11, citing Johnsen, p. 2).

Contrary to the Office Action's suggestion, it would *not* have been obvious to combine Wise with Johnsen to teach each element of Applicant's amended claim 1, for the following two reasons.

First, Johnsen is directed to an apparatus for "vegetarian covered flat roofs etc. with increased drainage floors." (Johnsen, Abstract). Johnsen discloses in FIG. 7 a studded plate that appears to be equivalent to the PLATON DE25 plate. However, Johnsen also discloses that the inventive aspect of the plate is the drainage aperture (15) that "remov[es] excessive water from the cam cavities to a level below the slab main plane." (Johnsen, Abstract). This component is neither disclosed nor emphasized in any embodiments of the studded plates disclosed in Applicant's specification or figures.

Second, the Examiner asserts that Johnsen suggests that "the PLATON DE25 shape is a design that has been used in arts requiring studded plates for construction purposes." (Office Action, p. 12, citing Johnson, p. 2 ("Area Covered by Invention")). Applicant respectfully disagrees. Johnsen asserts:

This invention relates to a device for a guard plate or drainage plate, especially a plate that has hollow cams [cogs] or bulges that protrude out of the main plane of the plate, and whereby especially the plate extends in a water storage system, resting with the peaks of the cams on a support and turning the cam openings upwards to receive precipitation.

This does not teach or suggest using a studded plate—or the PLATON DE25—for "construction purposes". Rather, it suggests using a studded plate for drainage purposes. It hardly suggests a studded plate for the denticulation of concrete joints.

Accordingly, the useful properties of the studded plate (equivalent to the PLATON DE25) identified by Johnsen are not the same useful properties identified by

Applicant. Johnsen identifies the drainage aperture that removes water from the cams that face upward to collect precipitation. Johnsen does not even identify the properties of the PLATON DE25 for use as a casting form for anything. Therefore, the Examiner insufficiently articulates a motivation for one of ordinary skill to combine a reference disclosing use of a plate for drainage purposes (Johnsen) with a reference directed to “a casting form for making long concrete slabs”, (Wise). (Wise, col. 1, lines 1-2). Therefore, it would not have been obvious to one of ordinary skill to combine Wise with Lewis and with Johnsen to teach each of the elements of Applicant’s amended claim 1.

Thus, Wise, Lewis and Johnsen, either alone or in combination, fail to teach each element of Applicants’ amended claim 1. Nor do any of the additional secondary references (Schertzberg) teach each of the elements of amended claim 1. Claim 1 is therefore respectfully submitted to be in condition for allowance. For at least similar reasons, claims 2, 8-24 are also respectfully submitted to be in condition for allowance.

Applicant has chosen in the interest of expediting prosecution of this patent application to distinguish the cited documents from the pending claims as set forth above. These statements should not be regarded in any way as admissions that the cited documents are, in fact, prior art. Additionally, Applicant has not specifically addressed the rejections of the dependent claims. Applicant respectfully submits that the independent claim, from which they depend, is in condition for allowance as set forth above. Accordingly, the dependent claims also are in condition for allowance. Applicant, however, reserves the right to address rejections of the dependent claims in the future as appropriate

**CONCLUSION**

Based on the foregoing amendments and remarks, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims and allowance of this application.

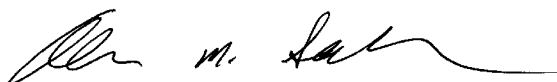
**AUTHORIZATION**

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. **504827**, Order No. 1004475.001US. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No **504827**, Order No. 1004475.001US. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

Respectfully submitted,  
LOCKE LORD BISSELL & LIDDELL, L.L.P.

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